

MESSNER REEVES LLP

TRACY E. KERN
 PETER J. LEE
 JONES WALKER LLP
 201 St. Charles Ave., Ste. 5100
 New Orleans, LA 70170
 Tel: (504) 582-8000/ Fax: (504) 589-8603
tkern@joneswalker.com
mgussman@joneswalker.com

JONATHAN B. OWENS, ESQ.
 Nevada Bar No. 7118
 MESSNER REEVES LLP
 8945 West Russell Road, Suite 300
 Las Vegas, Nevada 89148
 Telephone: (702) 363-5100
 Facsimile: (702) 363-5101
 E-mail: jowens@messner.com
Attorneys for Defendant,
Autozoners, LLC

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ERIC COLLINS,

Plaintiffs,

vs.

AUTOZONE, INC., a Nevada corporation;
 DOES I through X, inclusive; and ROE
 BUSINESS ENTITIES, I through X, inclusive,

Defendants.

Civil Action No: 2:22-cv-00316-CDS-BNW

**DEFENDANT, AUTOZONERS, LLC'S
 MOTION TO CONTINUE THE DATE
 OF THE EVIDENTIARY HEARING ON
 PLAINTIFF'S MOTION FOR
 SANCTIONS**

**DATE OF HEARING: 10/5/2023
 TIME OF HEARING: 10:00 AM**

Defendant, Autozoners, LLC, hereby moves this Court for a continuance of the October 5, 2023, Evidentiary Hearing on Plaintiff's Motion for Sanctions based upon the unavailability of counsel and witnesses on the date currently set for the hearing. This motion is made and based upon

////

////

////

////

the memorandum of points and authorities below, as well as the declaration of Jonathan B. Owens, Esq., and any argument permitted by the Court on the hearing of this motion.

DATED this 19th day of September, 2023.

JONES WALKER LLP

By: /s/ Peter J. Kee, Esq.

TRACY E. KERN

PETER J. KEE

JONES WALKER LLP

201 St. Charles Ave., Suite 5100

New Orleans, LA 70170

Tel: (504) 582-8000

Fax: (504) 589-8603

tkern@joneswalker.com

mgussman@joneswalker.com

MESSNER REEVES LLP

By: /s/ Jonathan B. Owens, Esq.

JONATHAN B. OWENS

Nevada Bar No. 7118

8945 West Russell Road, Suite 300

Las Vegas, Nevada 89148

Email: jowens@messner.com

Attorneys for Defendant,

Autozoners, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

**DECLARATION OF JONATHAN B. OWENS, ESQ., IN SUPPORT OF DEFENDANT'S
MOTION TO CONTINUE**

JONATHAN B. OWENS, ESQ., declares and states as follows:

1. I am a partner at the law firm of Messner Reeves LLP licensed to practice law before all courts in the State of Nevada and am local counsel of record for Defendant AUTOZONERS, LLC.

2. Attorneys Tracey E. Kern, Esq., and Peter J. Kee, Esq., of the firm JONES WALKER LLP, have been admitted to practice in this matter and are acting as lead counsel for Defendant AUTOZONERS, LLC.

3. I have personal knowledge of the facts referred to in this declaration and could competently testify to these facts if called upon to do so in a court of law.

4. The evidentiary hearing on Plaintiff's Motion for Sanctions is currently set for October 5, 2023, at 10:00 a.m., and the Court requires in person appearances of both counsel and witnesses.

5. Attorneys Tracey E. Kern, Esq., and Peter J. Kee, Esq., are currently scheduled for a multi-week trial in Chicago starting October 9, 2023, and will be in Chicago on October 5, 2023, for trial preparation.

6. Defendant's primary witness for the evidentiary hearing, Lori Casson, has relocated to Memphis, TN and is also not available on October 5th. Specifically, Ms. Casson has another trial scheduled in California commencing on October 9, 2023, and will be in trial preparation from October 2nd through 6th. In that trial, Ms. Casson is the central corporate witness and will be the corporate representative.

7. Based on the foregoing, it is Defendant's position that good cause exists to continue the October 5, 2023, evidentiary hearing. Further, based upon conversations between Mr. Kee and Plaintiff's counsel, Plaintiff does not object to the hearing being rescheduled and has represented to Mr. Kee that Plaintiff will file a Notice of No Opposition to the instant motion.

////

////

////

////

/s/ Jonathan B. Owens, Esq.
Jonathan B. Owens, Esq.

ARGUMENT

As noted above, both lead counsel and the primary witness for Defendant are not available on the date currently set for the evidentiary hearing on Plaintiff's Motion for Sanctions. Further, based upon discussions with counsel for Plaintiff, Plaintiff does not have an objection to a continuance of the evidentiary hearing. Accordingly, Defendant requests that the Court continue the October 5, 2023, evidentiary hearing on Plaintiff's Motion for Sanctions to a date in November 2023. Undersigned

///

///

///

///

////

////

///

// // // //

// // // //

// // // //

// // // //

/ / / /

counsel has confirmed that Ms. Casson is available from November 6-17, 2023, as are Defendant's counsel.

DATED this 19th day of September, 2023.

JONES WALKER LLP

By: /s/ Peter J. Kee, Esq.
TRACY E. KERN
PETER J. KEE
JONES WALKER LLP
201 St. Charles Ave., Suite 5100
New Orleans, LA 70170
Tel: (504) 582-8000
Fax: (504) 589-8603
tkern@joneswalker.com
mgussman@joneswalker.com


MESSNER REEVES LLP

By: /s/ Jonathan B. Owens, Esq.
JONATHAN B. OWENS
Nevada Bar No. 7118
8945 West Russell Road, Suite 300
Las Vegas, Nevada 89148
Email: jowens@messner.com
Attorneys for Defendant,
Autozoners, LLC

Having read and considered the Defendant's Motion to Continue the Evidentiary Hearing ECF No. 69 on Plaintiff's Motion for Sanctions due to Spoliation ECF No. 50 and Plaintiff's notice of non-opposition, the motion (ECF No. 69) is **GRANTED**. The hearing currently schedule for 10/5/2023 is **VACATED** and continued to November 7, 2023 at 10:00 a.m.

IT IS SO ORDERED

DATED: 10:48 am, September 25, 2023



BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE VIA CM/ECF

Pursuant to FRCP 5, I hereby certify that I am an employee of MESSNER REEVES LLP and that on the 19th day of September, 2023, I caused to be served via CM/ECF a true and correct copy of the document described herein.

Document Served: DEFENDANT, AUTOZONERS, LLC'S MOTION TO CONTINUE THE DATE OF THE EVIDENTIARY HEARING ON PLAINTIFF'S MOTION FOR SANCTIONS

Jill Garcia, Esq. NV Bar No. 7805
Amy L. Howard, NV Bar No. 13946
HONE LAW
701 N. Green Valley Parkway, Suite 200
Las Vegas, NV 89074
Phone: 702-608-3720
Fax: 702-608-3726
jgarcia@hone.law
ahoward@hone.law

/s/ Erin Donaldson
An employee of MESSNER REEVES LLP